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Security Council

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# Ninth report of the Secretary-General pursuant to paragraph 4 of Security Council resolution 2107 (2013)

## I. Introduction

1. The present report is submitted pursuant to paragraph 4 of Security Council resolution 2107 (2103) and covers developments pertaining to the issues of missing Kuwaiti and third-country nationals and missing Kuwaiti property, including the national archives, since the issuance of my previous report, dated 28 October 2015 (S/2015/826).

2. Bilateral ties between Iraq and Kuwait remained strong during the reporting period. This goodwill was evidenced when, once again, Kuwait supported the request made by Iraq to the Governing Council of the United Nations Compensation Commission for an additional one-year deferral of the requirement that Iraq deposit 5 per cent of its oil proceeds into the Compensation Fund pursuant to paragraph 21 of Security Council resolution 1483 (2003). On 28 October, in its decision 273 (2015), the Governing Council officially deferred until 1 January 2017 the payment of the remaining $4.6 billion in reparations owed to the Government of Kuwait.

3. On 10 November, at a meeting with the President of Iraq, Fuad Masum, on the margins of the fourth South American and Arab Countries Summit, held in Riyadh, the Prime Minister of Kuwait, Sheikh Jaber al-Mubarak al-Hamad al-Sabah, expressed his country's readiness to provide all forms of support to Iraq, particularly in the fight against ISIL. The wide-ranging discussions between the two countries also focused on the need for environmental cooperation, as well as the development of a strategic regional quartet for cooperation among Iran (Islamic Republic of), Iraq, Kuwait and Saudi Arabia in addressing desertification and environmental degradation. On the humanitarian front, the Kuwait Red Crescent Society continued its drive to deliver aid to displaced Iraqis, with a contribution of $200 million provided by Kuwait to Iraq in June 2015. In addition, on 22 November the Consulate of Kuwait in Erbil delivered food and other essential items to displaced Christian families from Ninewa.

4. On 21 and 22 December, the fifth meeting of the Iraq-Kuwait Joint Ministerial Committee was held in Kuwait, with the aim of strengthening cooperation between the two countries. During the meeting, the two countries signed four agreements covering inspection and control, youth and sports, and a fibre-optic communications link. On 22 December, during a meeting with the Deputy Emir and Crown Prince of Kuwait, Sheikh Nawaf al-Ahmad al-Jaber al-Sabah, Prime Minister Sheikh Jaber



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al-Mubarak al-Sabah and the First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait, Sheikh Sabah al-Khaled al-Hamad al-Sabah, the Minister for Foreign Affairs of Iraq, Ibrahim al-Jaafari, stressed the need for both countries to join efforts to counter the phenomenon of terrorism. The parties also welcomed the remarkable progress made in recent years in the strengthening of bilateral relations and highlighted the need to further consolidate their ties.

5. On 7 January, during Mr. Al-Jaafari's meeting in Kuwait with First Deputy Prime Minister and Minister for Foreign Affairs Sheikh Sabah al-Khaled al-Sabah, both sides committed to continuing their cooperation and coordination. On 10 and 11 January, the Speaker of the Iraqi Council of Representatives, Salim al-Jubouri, visited Kuwait in preparation for the Conference of the Parliamentary Union of the Organization of Islamic Cooperation Member States, scheduled for 20 January in Baghdad. The visit's main objective was to strengthen relations between the Parliaments of Iraq and Kuwait. During his visit, Mr. Al-Jubouri met with the Emir of Kuwait, Sheikh Sabah al-Ahmad al-Jaber al-Sabah, Prime Minister Sheikh Jaber al-Mubarak al-Sabah, First Deputy Prime Minister and Minister for Foreign Affairs Sheikh Sabah al-Khaled al-Sabah and the Speaker of the Kuwaiti National Assembly, Marzouq al-Ghanim. Mr. Al-Jubouri praised Kuwait's humanitarian assistance to Iraq, noting Iraq's difficulties in funding humanitarian activities, as well as the extent of humanitarian needs. Their discussions also addressed the fight against ISIL, as well as the need for unity on several regional issues.

## II. Recent activities with regard to the repatriation and return of all Kuwaiti and third-country nationals, or their remains

6. On 7 December, the members of the tripartite mechanism and the United Nations Assistance Mission for Iraq (UNAMI), as observer, were informed that the Government of Kuwait and the International Committee of the Red Cross (ICRC) continued to work together to reach out to potential witnesses to encourage them to come forward and provide all information available on this important issue. They encouraged the Government of Iraq to join them in those efforts. On 10 January 2016, the Government of Iraq met with a witness to discuss available information.

7. On 14 December, in carrying out his responsibilities under resolution 2107 (2013), my Deputy Special Representative for Political Affairs met with the Undersecretary for Legal Affairs and Multilateral Relations of the Ministry of Foreign Affairs of Iraq, Omar Barzanji, in Baghdad. My Deputy Special Representative reiterated the need for Iraq to abide by its international obligations relating to resolution 2107 (2013), in particular by ensuring that all information and technical expertise of the dissolved Ministry of Human Rights were retained by the Government to guarantee the continuity of the process. Mr. Barzanji assured him that the Government was fully committed to the file and would do its utmost to move the process forward. My Deputy Special Representative also met with the Head of the ICRC delegation in Baghdad, Katharina Ritz, on 13 January to discuss strategies for achieving progress on the missing persons file.

8. The Ministry of Human Rights of Iraq, which had led on the missing Kuwaiti persons and third-country nationals file, was dissolved in August 2015. The Government of Iraq recently informed the United Nations that the Human Rights Department of the Ministry of Defence of Iraq would officially take over the

technical aspects of that file. For its part, the Iraqi delegation to the tripartite mechanism will be headed by the Deputy Minister for Foreign Affairs of Iraq, while the Iraqi interministerial committee on missing Kuwaiti nationals will be chaired by the Director General of the Department of Human Rights of the Ministry of Defence. Discussions on the plan of activities for the next few months on the field have continued. On 11 January, Mr. Barzanji convened a meeting of the ministerial committee in charge of the missing Kuwaiti persons file to discuss the plan of activities, including the resumption of field work.

## III. Recent activities with regard to the return of Kuwaiti property

9. No forward movement with regard to the return of Kuwaiti property was registered during the reporting period. In his meeting with Mr. Barzanji, my Deputy Special Representative stressed the need for continued efforts in that area.

## IV. Observations

10. I commend the spirit of cooperation and solidarity that prevails in the bilateral relations between Iraq and Kuwait. I welcome the readiness of the Government of Kuwait to provide support to its neighbour in extraordinarily difficult security circumstances. I also welcome the decision of the Governing Council of the United Nations Compensation Commission to defer reparation payments by the Government of Iraq to Kuwait for an additional year. That will significantly contribute to the easing of Iraq's financial burden. I urge the two countries to avail themselves of this enabling climate to work closely together through the tripartite mechanism on the file of missing Kuwaiti persons and third-country nationals, as well as through the Joint Property Committee on missing Kuwaiti property, including the national archives, to finally achieve tangible results with respect to this humanitarian issue.

11. I acknowledge the severe security, fiscal and political challenges faced by the Government of Iraq and the need to refocus priorities on the emerging needs of the people of Iraq. I note the Government's decision to designate responsibility for the technical aspects of the file of missing Kuwaiti persons and third-country nationals to the Department of Human Rights of the Ministry of Defence. Now that the responsibility for the file has been officially designated to another government entity, I encourage the Government to swiftly implement decisions to facilitate the continuation of the work carried out by the former Ministry of Human Rights. I also urge the Government to introduce its 2016 plan of action, including field and excavation missions, as well as to allocate the budget necessary for such activities. I note with disappointment that no Kuwaiti remains have been found since 2004 and that some of the families of those missing have been waiting for 25 years to learn the fate of their loved ones. In addition, I would like to stress that the technical and practical difficulties of finding mortal remains will only increase with the passage of time.

12. I commend the steadfastness of the members of the tripartite mechanism under the able chairmanship of ICRC. I urge the Government of Iraq to continue to avail itself of the mechanism, which has been vital in generating comprehensive

discussions and new and innovative ideas on how to move the file forward. I look forward to the start of an in-depth scientific review of all information and past efforts, as endorsed by the Tripartite Commission in Geneva on 15 October, intended to focus and better direct search activities to locate the remains and clarify the cases of missing persons. I also welcome the close coordination between ICRC and the Governments of Iraq and Kuwait in reaching out to potential witnesses. I encourage the parties and in particular the Government of Iraq to continue to make all necessary efforts in contacting and following up on witnesses in order to obtain information on potential burial sites, while treating the matter with confidentiality and providing legal assurances in order to encourage witnesses to come forward. I remain hopeful that the multipronged approach will be able to reinvigorate the file and bring about concrete results.

13. I note with regret that no tangible progress was achieved during the reporting period with respect to missing Kuwaiti property, including the national archives. I urge the two Governments to work closer together and to convene the Joint Property Committee, which last met in June 2014, and to continue to do so every six months. I also urge the Government of Iraq to explore new avenues to achieve progress.

14. I underscore the dedication of UNAMI, my Special Representative for Iraq and my Deputy Special Representative for Political Affairs to promote, support and facilitate the efforts of the Government of Iraq aimed at repatriating or returning all Kuwaiti and third-country nationals or their remains, in addition to returning Kuwaiti property, including the national archives. UNAMI stands ready to offer assistance and to play a meaningful role in this humanitarian endeavour.

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## Letter dated 14 January 2016 from the Secretary-General addressed to the President of the Security Council

I have the honour to present the main findings and recommendations of the strategic review of the Office of my Special Envoy for the Sahel, which was completed by the Department of Political Affairs of the Secretariat in December 2015.

The strategic review was conducted from October to December 2015 in New York and in the region (Dakar, Nouakchott and Bamako) to assess progress and analyse current challenges to and opportunities in facilitating the implementation of the United Nations integrated strategy for the Sahel. The review team was, in particular, tasked with determining whether adjustments were required to the objectives and institutional design of the Office, including making recommendations on the location of its headquarters, as requested by the Security Council (see S/PRST/2015/24).

The review was undertaken in consultation with all relevant United Nations entities and included consultations with some members of the Security Council and representatives of Burkina Faso, Chad, Mali, Mauritania and the Niger, as well as other regional and international stakeholders.

In the review it was found that the Office had made good progress in carrying forward a complex, pioneering and hybrid mandate combining both political and programmatic responsibilities. It was highlighted that the innovative nature of the approach adopted by the Office and the agility and creativity with which it had been implemented, in the absence of any frame of reference, should be recognized as a significant contribution to the expansion of the international toolbox for conflict prevention.

In terms of specific findings, the review team reported that, in support of the implementation of the integrated strategy, my Special Envoy had provided continuous support and leadership to the coordination structures established to ensure coherence in the implementation of the integrated strategy, including by convening coordination mechanisms, engaging with country-level strategic planning processes and articulating strategic priorities in consultation with regional actors.

The review team found that the activities had resulted in the development of several joint regional projects, the alignment of country-specific planning documents with the integrated strategy and progress towards the establishment of a United Nations trust fund for the Sahel. At the subregional level, the review team noted the efforts of the Office to strengthen relations with regional actors, mobilize



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partnerships and promote local ownership of the integrated strategy, including through good offices and facilitation of cooperation, as well as institutional support to the Group of Five for the Sahel and its activities. The Office had also undertaken regular activities to support enhanced coordination among international and regional partners, including through participation in and support to the Ministerial Coordination Platform for the Sahel and the informal contact group of international partners.

While noting the request by the Security Council for recommendations on the location of the Office (see S/PRST/2015/24), and the request of the Heads of State of the Group of Five for the Sahel for the reinforcement and transfer of the Office to the Group's headquarters, made at the summit of the Group of 20 November 2015, the review team discussed the advantages and disadvantages of relocating the Office to Nouakchott. In the light of the operational challenges relating to a relocation of the Office, the team noted that the deployment of a light liaison cell to Nouakchott could be a constructive alternative.

With regard to the institutional design of the Office of my Special Envoy for the Sahel, three possible options going forward were discussed in the review:

(a) Maintain the Office in Dakar as a stand-alone entity, with a liaison cell in Nouakchott;

(b) Relocate the Office to Nouakchott as a stand-alone entity;

(c) Merge the Office into the United Nations Office for West Africa (UNOWA), which would be renamed the United Nations Office for West Africa and the Sahel (UNOWAS). Under a merger, the Office of the Special Envoy of the Secretary-General for the Sahel would be renamed the United Nations Office for the Sahel and headed by the current Assistant Secretary-General, who would report through my Special Representative for West Africa and Head of UNOWA. Existing levels of staffing and resources would be maintained. It was noted in the review that a merger could take place in two modes: a light merger, whereby existing capacity to support the integrated strategy would remain largely unchanged, except for its reporting line through my Special Representative for West Africa and Head of UNOWA; and a heavy merger, whereby the head of the Office of my Special Envoy at the level of Assistant Secretary-General would also assume the role of my deputy special representative for West Africa, with responsibilities for the entire regional office and its mandate.

While noting that each option involved political and operational trade-offs, the review team concluded that a light merger could provide an optimal configuration to support the implementation of the integrated strategy, notably by ensuring dedicated senior-level attention, high levels of political access, sufficient technical capability and efficiency in the use of resources. It would also signal the continued political commitment of the United Nations to the Sahel, in response to the request of the Member States of the region.

With regard to the mandate, the review team underscored the need to provide authoritative guidance on the geographical focus of the Office of my Special Envoy or its successor entity, in particular on the calibration of engagement between the five core countries and the wider Sahel region. In addition, it was suggested in the review that the revised terms of reference of the Office or its successor entity should clarify the extent of its programmatic and fundraising role.

On the basis of the strategic review, I intend to proceed with the implementation of its recommendations, including initiating a light merger of the Office of my Special Envoy for the Sahel and UNOWA and making the necessary adjustments to the guidance on the implementation of the integrated strategy.

I should be grateful if you would bring the present letter to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon

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## Letter dated 28 January 2016 from the President of the Security Council addressed to the Secretary-General

I have the honour to inform you that your letter dated 14 January 2016 (S/2016/88) concerning your intention to proceed with the implementation of the recommendations of the strategic review of the Office of your Special Envoy for the Sahel, including initiating a light merger of the Office and the United Nations Office for West Africa, has been brought to the attention of the members of the Security Council.

They request you to proceed with the merger, with a view to maximizing synergies by ensuring a unified management and structure of the new United Nations Office for West Africa and the Sahel (UNOWAS).

Recalling the statement by the President of the Security Council of 8 December 2015 (S/PRST/2015/24), they encourage UNOWAS to make further progress towards the implementation of the United Nations integrated strategy for the Sahel and to continue to work closely with the States of the region, including the Group of Five for the Sahel, to tackle the threats to peace, security and development in the Sahel, as well as their root causes.

In this regard, they request you to provide an update on the fulfilment by UNOWAS of its mandate in your next report and briefing to the Security Council, in July 2016.

(*Signed*) Elbio **Rosselli**
President of the Security Council

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## Letter dated 21 January 2016 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council

I have the honour to transmit to you a letter dated 21 January 2016 from the Special Representative of the National Coalition of Syrian Revolutionary and Opposition Forces (see annex).

I should be most grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) François **Delattre**

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## Annex to the letter dated 21 January 2016 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council

[Original: English]

On behalf of the National Coalition of Syrian Revolutionary and Opposition Forces, it is with great concern that I draw your attention to the urgent need for civilian protection in Syria, in advance of the first round of Syrian "Geneva III" peace talks currently scheduled for 25 January 2016, and following the Security Council's open debate on the protection of civilians on 19 January 2016.

On 31 October 2015, the Secretary-General issued a statement urging "all States to take immediate, concrete steps to ease the plight of civilians", noting that "in the face of blatant inhumanity, the world has responded with disturbing paralysis". Nowhere have both inhumanity and paralysis been on more prominent display than in Syria, where indiscriminate attacks on civilians by Assad regime forces have become the defining feature of a conflict that has killed more than 300,000 people, displaced half the country, and generated an extremist terrorist threat that now wreaks havoc on the world.

The Security Council has a clear mandate to protect civilians in Syria, as laid out in Security Council resolutions 2118 (2013), 2139 (2014), 2165 (2014), 2191 (2014), 2209 (2015), 2254 (2015) and 2258 (2015). Yet consistently throughout the Syrian crisis, the Security Council has failed to uphold its mandate to protect civilians. In so doing, it has failed the people of Syria.

The Security Council's failures on Syria are manifold. The Security Council has failed to enforce Chapter VII measures in Syria despite repeated, proven violations of Security Council resolution 2118 (2013), which have cost civilian lives. The Security Council has failed to break the sieges across Syria, despite the horrific levels of starvation witnessed in Madaya, eastern Ghouta, and elsewhere. It has failed to take measures to stop the indiscriminate aerial bombardment of civilians, despite the more than 6,000 Syrian civilians that were killed by air strikes in 2015 alone. And it has failed to refer the situation in Syria to the International Criminal Court, despite the repeated calls by the Secretary-General and the people of Syria for it to do so.

The Security Council has failed Syrians. But so, too, have Member States. In the face of Security Council paralysis, Member States have too often refused to take the actions required to uphold international humanitarian law and save lives in Syria. Too frequently, they have refrained from providing life-saving assistance, despite a legal and moral imperative to do so. And they have categorically failed in their responsibility to protect civilians. Blaming Russian intransigence is not a response. It is not a policy. It doesn't help Syrians. Only action to protect lives would help Syrians and show Russia that its veto against humanity is powerless.

The failure to protect Syrian civilians has cost Syrian lives. It has allowed ISIS to grow and thrive. It has enabled the conflict to metastasize. And it has served as an impediment to efforts to attain a peaceful resolution to the Syrian crisis.

Make no mistake: there can be no peace in Syria without civilian protection. Geneva III cannot succeed if Syrians are being slaughtered with impunity and starved into submission. Syrians will not be bombed, starved or beaten to the

negotiating table. Such a negotiation would lack legitimacy. It would fail to win the support of Syrians on the ground. And it would send the wrong signal to Assad and future dictators everywhere: indicating that indiscriminate violence, atrocities and war crimes actually work.

If Member States are serious about reaching a political settlement in Syria, they must prioritize the protection of civilians. This requires that Member States:

(a) Provide clear guarantees that civilians will be protected if and when a ceasefire is reached and broken, including by enforcing measures such as a no-bombing zone to stop the indiscriminate air strikes across Syria;

(b) Act now to break the sieges across Syria by providing airdrops to Syria's 52 besieged communities — ensuring that the one million people trapped in areas under siege receive the food, water and medical care they so desperately deserve;

(c) Demand accountability for war crimes, including by taking steps to establish a special international tribunal for Syria, should Security Council paralysis prevent the referral of the situation in Syria to the International Criminal Court.

The people of Syria need protection. They need an end to the sieges and indiscriminate bombardment. And they need accountability. Through their resolve and their determination, Member States can save lives in Syria. Their failure to do so is inexplicable to Syrians — not least because doing so would serve not only the interests of Syrians, but of Member States too.

(*Signed*) Najib **Ghadbian**
Special Representative to the United Nations